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MARTIN & FERRARO, LLP  
1557 Lake O'Pines Street, NE  
Hartville, Ohio 44632Telephone  
(330) 877-0700Facsimile  
(330) 877-2030

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No. of Pages (including this): 8

Subject: Request for Certificate of Correction

Date: March 21, 2006

U.S. Patent No. 6,986,772

Issued: January 17, 2006

Gary K. Michelson

DYNAMIC LORDOTIC GUARD WITH MOVABLE  
EXTENSIONS FOR CREATING AN  
IMPLANTATION SPACE POSTERIORLY IN THE  
LUMBAR SPINE

Attorney Docket No.: 101.0081-00000

Customer No. 22882

Confirmation Copy to Follow: No

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## CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that the attached Request for Certificate of Correction with 1 sheet of Form PTO-1050 (in duplicate) and 3 sheets of supporting documents are being facsimile transmitted to the U.S. Patent and Trademark Office on March 21, 2006.

  
Sandra L. Blackmon

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PTO/SB/44 (04-05)  
(Also Form PTO-1050)UNITED STATES PATENT AND TRADEMARK OFFICE  
CERTIFICATE OF CORRECTION

PATENT NO. : 6,986,772  
APPLICATION NO. : 10/085,731  
ISSUE DATE : January 17, 2006  
INVENTOR(S) : Gary K. Michelson

Page 1 of 1

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 16, Penultimate Line:

Change "teins bone" to -- teins, bone --.

Column 17, Line 52:

Change "leas" to -- least --.

Column 18, Line 19:

Change "cutback" to -- cut back --.

Column 19, Line 16:

After "has" insert -- a --.

Column 20, Line

Change "teins bone" to -- teins, bone --.

Mailing Address of Sender:  
Martin & Ferraro, LLP  
1557 Lake O'Pines Street, NE  
Hartsville, Ohio 44632

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PATENT NO. 6,986,772

Application No. 10/085,731  
Amendment dated January 21, 2005  
Reply to Office Action of July 21, 2004

ossifying proteins, bone morphogenetic protein, hydroxyapatite, and genes coding for the production of bone.

57. (original) The guard of claim 53, wherein said implant is in combination with a bone growth promoting material.
58. (original) The guard of claim 57, wherein said bone growth promoting material is selected from one of bone, bone derived products, demineralized bone matrix, ossifying proteins bone morphogenetic protein, hydroxyapatite, and genes coding for the production of bone.
59. (original) The guard of claim 53, wherein said implant is treated with a bone growth promoting substance.
60. (original) The guard of claim 53, wherein said implant comprises at least one of the following materials: metal, titanium, plastic, and ceramic appropriate for implantation in the human body.
61. (original) The guard of claim 53, wherein said implant is at least in part resorbable.
62. (original) The guard of claim 53, wherein said implant is formed of a porous material.
63. (original) The guard of claim 53, in combination with a chemical substance adapted to inhibit scar formation.
64. (original) The guard of claim 53, in combination with an antimicrobial material.
65. (currently amended) A guard for use in human interbody spinal surgery from across a disc space between two adjacent vertebral bodies, comprising:

a body having an opening for providing a protected pathway~~access~~ to the disc space and the adjacent vertebral bodies, said opening having at least in part opposed interior portions being at least in part flat adapted to guide therethrough a bone removal device sized to form an implantation space across the disc space and at least in part into the adjacent vertebral bodies; and

at least one disc space penetrating extension extending from said body adapted for insertion at least in part into the disc space, said disc penetrating extension having a first portion having a contact surface adapted to bear against one of the adjacent endplates of the adjacent vertebral bodies and a second

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portion having a contact surface adapted to bear against the other of the adjacent endplates of the adjacent vertebral bodies, said contact surfaces of said first and second portions being rotatably articulating relative to one another between an insertion position and a deployed position to move the adjacent vertebral bodies apart, said contact surfaces of said first and second portions being pivotal about an axis that passes through at least a portion of the pathway to the disc space and the adjacent vertebral bodies.

66. (original) The guard of claim 65, wherein said opposed interior portions of said opening are parallel to one another.
67. (original) The guard of claim 65, wherein said opposed interior portions of said opening are angled to one another.
68. (original) The guard of claim 65, wherein said opening of said body is generally rectangular.
69. (original) The guard of claim 65, wherein said opening of said body is generally square.
70. (original) The guard of claim 65, wherein said body has an exterior surface that has opposed upper and lower surfaces oriented toward the adjacent vertebral bodies, respectively, said upper and lower surfaces being at least in part flat.
71. (original) The guard of claim 70, wherein said exterior surface of said body has opposed side surfaces, said side surfaces being at least in part flat.
72. (original) The guard of claim 71, wherein said side surfaces of said exterior surface are parallel to one another.
73. (original) The guard of claim 65, wherein said body has an exterior surface that has a generally rectangular cross section along at least a portion of the length of said body.
74. (original) The guard of claim 65, wherein said body has an exterior surface that has a generally square cross section along at least a portion of the length of said body.
75. (original) The guard of claim 65, wherein said body has a generally rectangular cross section along at least a portion of the length of the guard.

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86. (original) The guard of claim 85, wherein said extensions are diametrically opposed to each other and spaced apart from one another to provide access to the adjacent vertebral bodies from within the disc space.
87. (original) The guard of claim 86, wherein said extensions have the same height.
88. (original) The guard of claim 86, wherein said extensions have the same height at the same distance along their length from said body.
89. (currently amended) The guard of claim 65, wherein said ~~opposed~~-contacting surfaces diverge away from said body along at least a portion of their length.
90. (original) The guard of claim 65, wherein said body has at least one window adapted to permit portions of bone extending through said window to be removed by the bone removal device passing through said body.
91. (original) The guard of claim 65, wherein said body has at least one window adapted to permit the surgeon to observe the surgery through said window.
92. (original) The guard of claim 65, wherein said first and second portions of said disc space penetrating extension are hinged to one another to rotatably articulate relative to one another.
93. (original) The guard of claim 65, wherein said first and second portions of said disc space penetrating extension rotatably articulate relative to one another about an axis of rotation that is fixed relative to the mid-longitudinal axis of said guard when moved from the insertion position to the deployed position.
94. (original) The guard of claim 65, further comprising an impaction cap adapted to cooperatively engage a trailing end of said body.
95. (original) The guard of claim 65, wherein said body has an interior having a cooperating surface for guiding a corresponding cooperating surface on the bone removal device.
96. (original) The guard of claim 65, wherein said body has a height in the range of 8-25 mm.
97. (currently amended) The guard of claim 65, wherein said opening of said body has a height in the range of 8-20 mm.
98. (original) The guard of claim 65, wherein said opening of said body has a width in the range of 10-25 mm.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent of: )  
Gary K. Michelson ) (Serial No.: 10/085,731)  
Patent No.: 6,986,772 )  
Issue Date: January 17, 2006 ) (Filed: March 1, 2002)  
For: DYNAMIC LORDOTIC GUARD WITH )  
MOVABLE EXTENSIONS FOR )  
CREATING AN IMPLANTATION )  
SPACE POSTERIORLY IN THE )  
LUMBAR SPINE )

Certificate of Correction Branch  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**REQUEST FOR CERTIFICATE OF CORRECTION**

Pursuant to 35 U.S.C. §§ 254 and 255 and 37 C.F.R. §§ 1.322 and 1.323, this is a request for the issuance of a Certificate of Correction in the above-identified patent. Two (2) copies of PTO Form 1050 are appended. The complete Certificate of Correction involves one (1) page.

The mistakes identified in the appended Form to issued claim 57 (pending claim 58), issued claim 81 (pending claim 78), and issued claim 118 (pending claim 115) are of a clerical or typographical nature, or of minor character, and resulted from an error made in good faith by Applicant.

The remaining mistakes identified in the appended Form occurred through the fault of the Patent Office, as clearly disclosed by the records of the application which matured into this patent, and as evidenced in the attached copies of the following documents:

1. Pages 8 and 9 of the January 21, 2005 Amendment, showing the correct language of issued claim 68 (pending claim 65); and
2. Page 11 of the January 21, 2005 Amendment, showing the correct

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language of issued claim 100 (pending claim 97).

The requisite fee of \$100.00 as set forth in 37 C.F.R. § 1.20(a) to cover the costs of issuing this Certificate is to be charged to Deposit Account No. 50-3726.


Should any additional fees be needed, authorization is hereby given to charge any fees due in connection with the filing of this request to Deposit Account No. 50-3726.

Issuance of the Certificate of Correction containing the correction is earnestly requested.

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: March 21, 2006

By:   
Thomas H. Martin  
Registration No. 34,383

1557 Lake O'Pines Street, NE  
Hartville, Ohio 44632  
Telephone: (330) 877-0700  
Facsimile: (330) 877-2030